

## Agricultural Marketing Service, USDA

## § 915.65

### MISCELLANEOUS PROVISIONS

#### § 915.61 Compliance.

Except as provided in this part, no person shall handle avocados, the shipment of which have been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle avocados except in conformity with the provisions of this part and the regulations issued under this part.

#### § 915.62 Right of the Secretary.

The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

#### § 915.63 Effective time.

The provisions of this part shall become effective at such time as the Secretary may declare above his signature to this part, and shall continue in force until terminated in one of the ways specified in § 915.64.

#### § 915.64 Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least one day's notice by means of a press release or in any other manner in which he may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part whenever the Secretary finds by referendum or otherwise that such termination is favored by a majority of the producers: *Provided*, That such majority has, during a representative period determined by the Secretary, produced more than 50

percent of the volume of the avocados produced within the production area: *And Provided further*, That such termination shall be announced by March 15 of the then current fiscal year.

(d) The Secretary shall conduct a referendum as soon as practicable after the end of the fiscal year ending March 31, 1990, and at such time every sixth year thereafter, to ascertain whether continuance of this part is favored by avocado producers. The Secretary may terminate the provisions of this part at the end of any fiscal year in which the Secretary has found that continuance of this part is not favored by producers who, during a representative period determined by the Secretary, have been engaged in the production for market of avocados in the production area: *Provided*, That termination of this part shall be effective only if announced on or before March 15 of the then current fiscal year.

(e) The provisions of this part shall, in any event, terminate whenever the provisions of the Act authorizing them cease to be in effect.

[19 FR 3439, June 11, 1954. Redesignated at 26 FR 12751, Dec. 30, 1961, and amended at 52 FR 7118, Mar. 9, 1987]

#### § 915.65 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and (3) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred

## **§ 915.66**

or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

### **§ 915.66 Effect of termination or amendment.**

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

### **§ 915.67 Duration of immunities.**

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

### **§ 915.68 Agents.**

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

### **§ 915.69 Derogation.**

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

### **§ 915.70 Personal liability.**

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individ-

## **7 CFR Ch. IX (1-1-05 Edition)**

ually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

### **§ 915.71 Separability.**

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

## **Subpart—Rules and Regulations**

### **§ 915.110 Exemption certificates.**

Exemption certificates under § 915.53 shall be issued by the Avocado Administrative Committee pursuant to the following rules and regulations:

(a) The grower must make application for exemption on a form supplied by the committee. A separate application must be made for each variety or classification of avocados and shall contain the following:

- (1) Name and address of the applicant, and date of application;
- (2) District in which the applicant's grove is located;
- (3) Regulation from which exemption is requested;
- (4) Variety for which exemption is requested;
- (5) Location (by county, highway, rural route, distance from nearest town, etc.) of grove from which avocados are to be shipped pursuant to the requested exemption certificate;
- (6) Information as to the average size of such avocados and the reasons why applicant believes he is entitled to an exemption certificate; and
- (7) Name of the person who will handle any exempted fruit if different than the applicant.

(b) Upon receipt of an application for exemption certificate, the Avocado Administrative Committee shall check all information furnished by the applicant and shall conduct such investigations concerning the maturity of the applicant's avocados as may be necessary to